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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/783,344	02/14/2001	Henry C. Yuen	GEM-04202/03	1085

7590

09/10/2004

John G. Posa  
GIFORD, KRASS, GROH, SPRINKLE,  
PATMORE, ANDERSON & CITKOWSKI, P.C.  
280 N. Old Woodward Ave., Suite 400  
Birmingham, MI 48009

EXAMINER

SHELEHEDA, JAMES R

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 09/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/783,344	<b>Applicant(s)</b> YUEN, HENRY C.	
	<b>Examiner</b> James Sheleheda	<b>Art Unit</b> 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>06/15/01</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Specification*

1. The abstract of the disclosure is objected to for being longer than 150 words.

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-5, 7 and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Alexander et al. (Alexander) (6,177,931).

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As to claim 1, Alexander discloses in a media delivery system, a method of gathering information regarding user preferences, comprising the steps of:

monitoring a user's interactions with the media system (column 28, lines 30-32), including the time the user spends viewing, a program received through the system (times when a viewer watched particular programs and ads; column 28, lines 32-40 and lines 53-59);

correlating the subject matter of the program with the amount the user spends viewing the program (recording information about the programs watched with the times the programs were watched; column 28, lines 32-44 and lines 53-59); and

inferring one or more user preferences (column 29, lines 56-67) based upon the correlation (based upon analysis of the recorded information; column 29, lines 14-21 and lines 56-60).

As to claim 2, Alexander discloses wherein the program is an electronic program guide (column 28, lines 30-32 and lines 49-52).

As to claim 3, Alexander discloses wherein the media delivery system is a cable television system (a cable distribution system; column 32, lines 7-22).

As to claim 4, Alexander discloses wherein the step of monitoring a user's interaction with the media delivery system (transmission of the monitored user

interaction; column 29, lines 14-20) occurs through a two-way cable network (wherein upstream communications are provided through a cable modem; column 8, lines 44-49).

As to claim 5, Alexander discloses wherein the step of monitoring a user's interaction with the media delivery system (transmission of the monitored user interaction; column 29, lines 14-20) occurs through a packet-switched network (a telephone modem connection; column 8, lines 44-49).

As to claim 7, Alexander discloses wherein the step of monitoring a user's interaction with the media delivery system (transmission of the monitored user interaction; column 29, lines 14-20) occurs as part of a telephone communication (a telephone modem connection; column 8, lines 44-49).

As to claim 8, Alexander discloses wherein:

the step of correlating the subject matter of the program with the amount of time the user spends viewing the program (recording information about the programs watched with the times the programs were watched; column 28, lines 32-44 and lines 53-59) occurs at the location of the user (performed by the user EPG; column 28, lines 30-34); and

the step of inferring one or more user preferences (column 29, lines 56-67) based upon the correlation (based upon analysis of the recorded information; column

29, lines 14-21 and lines 56-60) occurs at a location other than the user location (a computer at the headend; column 29, lines 14-20).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Alexander as applied to claim 1 above, and further in view of Yuen et al. (Yuen) (WO 97/31479).

As to claim 6, while Alexander discloses wherein the step of monitoring a user's interaction with the media delivery system (transmission of the monitored user interaction; column 29, lines 14-20) can occur through any conventional method of communication (column 8, lines 44-49), he fails to specifically disclose the use of a pager signal.

In an analogous art, Yuen discloses an interactive cable television system (Fig. 1; page 5, lines 4-12) which performs communications to the set top through a pager signal (page 5, lines 16-21) for the typical benefit of providing communications for low cost (page 5, lines 22-26) using existing infrastructure (page 5, lines 20-21).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Alexander's system to include the use of a pager signal,

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as taught by Yuen, for the typical benefit of implementing communications with a cable headend using existing communications infrastructure and at low cost.

### ***Conclusion***

6. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

### **Certificate of Mailing**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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Alexandria, VA 22313-1450

on \_\_\_\_\_  
(Date)

Typed or printed name of person signing this certificate:

\_\_\_\_\_

Signature: \_\_\_\_\_

### **Certificate of Transmission**

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) \_\_\_\_\_ - \_\_\_\_\_ on \_\_\_\_\_  
(Date)

Typed or printed name of person signing this certificate:

\_\_\_\_\_

Signature: \_\_\_\_\_

7. Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Sheleheda whose telephone number is (703) 305-8722. The examiner can normally be reached on 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (703) 305-4795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James Sheleheda  
Patent Examiner  
Art Unit 2614

JS

  
JOHN MILLER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600